IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 32 OF 1998.

1. Shri Vidhyadhar Atmaram Umarye,
   @ Venkatesh Atmaram Umarye.

2. Shri Vivek Vidhyadhar Umarye,
   @ Vivek Venkatesh Umarye.

3. Shri Govind Vidhyadhar Umarye,
   @ Govind Venkatesh Umarye.

4. Kum.Vineeta Vidhyadhar Umarye
   @ Vineeta Venkatesh Umarye.

5. Kum. Savita Vidhyadhar Umarye,
   @ Savita Venkatesh Umarye.

6. Mast. Prasad Vidhyadhar Umarye,
   @ Prasad Venkatesh Umarye,
   all r/o Naiguinim, Cudcharem,
   Bicholim, Goa.

7. Smt. Lalita Mahesh Matarbbagh,
   major in age, housewife.

8. Shri Mahesh Narayan Matarbagh
   both residing at Savoi,
   Verem, Ponda, Goa.

9. Shri Gurudas Atmaram Umarye.

10. Smt. Sushma Gurudas Umarye,
    both residing at Ponda, Goa. ... Appellants.

Appellants No.1, 3, 4, 7, 8 and 10
are represented by their duly
constituted power of Attorney
Shri Gurudas Atmaram Umarye,
Appellant No.9.

VERSUS

1. The Chief Secretary,
   Government of Goa,
   Secretariat, Panaji, Goa.

2. Director of Settlement and Land
   Records, Government of Goa,
   Panaji, Goa.

3. Chief Engineer,
   Public Works Department,
   Altinho, Panaji, Goa.

4. Executive Engineer,
   Roads and Bridges, Public

Works Department,
Panaji, Goa.

5. Assistant Engineer,
Office of the Assistant Engineer
Sub Div.IV Works Division II (R&B)
Public Works Department,
Sanquelim, Goa.

6. Shri Shridhar @ Laxmikant
Atmaram Umarye,
resident of Quela, Ponda, Goa.

7. Mrs. Shridhar Atmaram Umarye,
resident of Quela, Ponda, Goa.

8. Shri Ranganath Atmaram Umarye,
r/o Nakudshi Cuchirem,
Bicholim, Goa.

9. Smt. Bhawani Ranganath Umarye,
housewife, major in age,
r/o Nakudshi, Cudchirem,
Bicholim, Goa.

10. Shri Shrinivas Shripad Umarye,
@ Shrinivas Ramchandra Umarye,
Govt. teacher, major in age,
r/o Naiguinim, Bicholim, Goa.

11. Mrs. Shrinivas Ramchandra Umarye,
r/o Naiiiiguinim, Bicholim, Goa. ... Respondents.

Shri R.G. Ramani, Advocate for the Appellants.

Shri H.R. Bharne, Government Advocate for the Respondents No.1 to 5.

CORAM: N.A. BRITTO, J.

DATE: 25TH MARCH, 2004.

ORAL JUDGMENT:

This appeal was filed against the Judgment and Decree dated 29.10.97 of the learned Civil Judge Senior Division, Bicholim by which the suit filed by the plaintiffs (appellants) was dismissed against

Defendants No.1 to 5 (respondents) which was proceeding ex parte against them. When this appeal came up for hearing, learned Advocate Shri Bharne on behalf of the said defendants (Respondent nos.1 to 5) has submitted that it would be in the interest of the plaintiffs as well as the said defendants in case the appeal is allowed and the suit is remanded to be decided on merits of the case of the plaintiffs.

2. Learned Advocate Shri R.G. Ramani has no objection for the same. Accordingly both the parties represented by Advocate Shri Ramani as well as by learned Advocate Shri Bharne have agreed to appear before the Trial Court on 12.04.2004 at 10.30 a.m. and the defendant nos.1 to 5 (respondents) have agreed to file their written statement within four weeks therefrom. It is also agreed between both the parties that they be given fresh opportunity before the Trial Court to lead their evidence.

3. In view of the above, the Judgment and Decree dated 29.10.97 of the learned Civil Judge Senior Division, Bicholim is hereby set aside and defendant Nos.1 to 5 are given an opportunity to file their written statement and contest the suit within four weeks from 12.04.2004. Thereafter the learned Civil Judge Senior Division is directed to proceed with the trial of the suit in accordance with law by giving the plaintiffs further opportunity to lead evidence in

case they so desire and thereafter the same opportunity be extended to the said defendants.

N. A. BRITTO, J.

sl.